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5 UNITED STATES DISTRICT COURT  
6 DISTRICT OF NEVADA  
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8 UNITED STATES OF AMERICA AND THE  
9 STATE OF NEVADA, *ex rel*,  
MARY KAY WELCH

10 Plaintiff,

11 vs.

12 MY LEFT FOOT CHILDREN'S THERAPY,  
13 LLC, *et al.*,

14 Defendants.

Case No.: 2:14-cv-01786-MMD-GWF

**ORDER**

15 This matter is before the Court on Defendants' Motion for Leave to File Exhibit Under Seal  
16 (ECF No. 144), filed on November 29, 2017.

17 Plaintiff requests leave to file unredacted Exhibit 1-A to its Reply in Support of Motion for  
18 Sanctions under seal. The exhibit contains confidential patient protected health information. The  
19 Ninth Circuit comprehensively examined the presumption of public access to judicial files and  
20 records in *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006). There, the  
21 court recognized that different interests are at stake in preserving the secrecy of materials produced  
22 during discovery and materials attached to dispositive motions. The *Kamakana* court held that a  
23 "good cause" showing is sufficient to seal documents produced during discovery. *Id.* at 1180.  
24 However, the *Kamakana* decision also held that a showing of "compelling reasons" is needed to  
25 support the secrecy of documents attached to dispositive motions. A showing of "good cause" does  
26 not, without more, satisfy the "compelling reasons" test required to maintain the secrecy of  
27 documents attached to dispositive motions. *Id.*

28 *Kamakana* recognized that "compelling reasons" sufficient to outweigh the public's

1 interests in disclosure and justify sealing records exist when court records may be used to gratify  
2 private spite, permit public scandal, circulate libelous statements, or release trade secrets. *Id.* at  
3 1179 (internal quotations omitted). However, “[t]he mere fact that the production of records may  
4 lead to a litigant’s embarrassment, incrimination, or exposure to further litigation will not, without  
5 more, compel the court to seal its records.” *Id.*, citing, *Foltz v. State Farm Mutual Auto Insurance*  
6 *Company*, 331 F.3d 1122, 1136 (9th Cir. 1995). To justify sealing documents attached to  
7 dispositive motions, a party is required to present articulable facts identifying the interests favoring  
8 continuing secrecy *and* show that these specific interests overcome the presumption of public access  
9 by outweighing the public’s interests in understanding the judicial process. *Id.* at 1181 (internal  
10 citations and quotations omitted). The Court finds that Defendants have met their burden and,  
11 therefore, grants their request to file unredacted versions of Exhibit 1-A to their reply. Accordingly,

12 **IT IS HEREBY ORDERED** that Defendants’ Motion for Leave to File Exhibit Under Seal  
13 (ECF No. 144) is **granted**.

14 DATED this 1st day of December, 2017.

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17 GEORGE FOLEY, JR.  
18 United States Magistrate Judge  
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